

A RESOLUTION BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE

01-_L-0293

A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT TITLE TO CERTAIN LANDS OR INTERESTS IN LANDS ALONG THE CHATTAHOOCHEE RIVER FROM THE TRUST FOR PUBLIC LAND OR A THIRD PARTY LANDOWNER WITH WHOM THE TRUST FOR PUBLIC LAND HAS CONTRACTED TO ACQUIRE LAND OR AN INTEREST IN LAND, ALL FOR PURPOSES OF ADDING TO THE **CHATTAHOOCHEE RIVER** PARK. CONSISTENT WITH THE TERMS OF THAT **CERTAIN** CONSERVATION SERVICES AGREEMENT BETWEEN THE CITY OF ATLANTA AND THE TRUST FOR PUBLIC LAND; AND FOR OTHER PURPOSES.

WHEREAS, the Chattahoochee River Park is identified in the 2001 Comprehensive Development Plan as adopted by the City Council and approved by the Mayor in July, 2000; and

WHEREAS, the City wishes to complete the acquisition of lands and interests in land, such as easements, in certain properties along the Chattahoochee River, as identified in Exhibit A, for the purpose of adding to a linear park being developed along the River; and

WHEREAS, the City has previously entered into a Conservation Services Agreement with The Trust for Public Land ("TPL"), a non-profit, 501 (c)(3) organization, whose business is to negotiate property acquisitions and donations from landowners, and to hold such lands or interests in lands in trust until a public agency has the funds available to purchase the property or, as applicable, accept a donation of same; and

WHEREAS, consistent with the terms of said Conservation Services Agreement, TPL has negotiated two donation transactions with landowners along the Chattahoochee River, and, in preparation for consummation of such donation transactions and in accordance with the terms of the donations, has requested that the City make certain commitments consistent with the City's intent to develop and incorporate such properties into the Chattahoochee River Park; and

WHEREAS, predicated on such commitments from the City, TPL will be able to consummate such donation transactions, and arrange for the conveyance of such lands or interests in land directly into the City; and

WHEREAS, in order to permit TPL to move forward in effecting the closing on such donations of lands and interests in land for the Chattahoochee River Park, the City desires to make the commitments called for by the prospective donor landowners, and to agree to accept the donations of such lands or interests in land, all as more fully set forth below.

NOW, THEREFORE, THE CITY COUNCIL OF ATLANTA, GEORGIA, HEREBY RESOLVES:

SECTION 1: The Mayor is hereby authorized to accept the donation of title to either a fee interest or an easement interest in each of the following properties (collectively, the River Park Properties") along the Chattahoochee River, for inclusion in the Chattahoochee River Park: (a) those certain tracts or parcels of land owned by Blue Circle, Inc. and lying and being in Land Lot 255 of the 17th District of Fulton County, City of Atlanta, as more particularly described on Exhibit A attached hereto and incorporated herein by reference; (b) those certain tracts or parcels of land owned by Blue Circle, Inc. and lying and being in Land Lot 253 and 254 of the 17th District of Fulton County, City of Atlanta, as more particularly described on Exhibit B attached hereto and incorporated herein by reference; and (c) an easement in certain lands owned by Georgia Power Company and located in Land Lots 253, 254 and 255 of the 17th District of Fulton County, City of Atlanta, as more particularly described on Exhibit C attached hereto, which easement is more fully set forth in that certain Bicycle Pedestrian and Landscape Easement Agreement, a copy of which is attached hereto as Exhibit D.

<u>SECTION 2</u>: The City shall construct and maintain a public pedestrian and bicycle trail network on the River Park Properties, consistent with the inclusion of such lands or interests in land in the Chattahoochee River Park being developed by the City as identified in the 2001 Comprehensive Development Plan.

SECTION 3: Consistent with the Conservation Services Agreement, TPL shall not receive any brokerage fees with respect to the donation of the Chattahoochee River Park Properties as contemplated herein.

A true copy, Phenda Daughin Johnson Municipal Clerk, CMC

ADOPTED by the Council APPROVED by the Mayor

APR 02, 2001 APR 10, 2001



Exhibit A

PARCEL NO. 1

ALL that tract or parcel of land lying and being in Land Lot 255 of the 17th District of Fulton County, Georgia and being more particularly described as follows:

BEGINNING at the intersection of the southwest right-of-way line of Access Highway with the southeast boundary of the Challahoochee River and running thence southeasterly along the southwest line of said right-of-way, two hundred forty (240) feet, more or less, to a point twenty (20) feet northerly of the southern extremity of the Access Highway Bridge as extended to Intersect said right-of-way line; running thence southwesterly along the curve, which has a radius of 676.78 feet, two hundred sixteen (216) feet to a point; continuing southwesterly, ninety (90) feet, more or less, to a point on the north line of property now or formerly owned by Chattahoochea Brick Company; running thence west along the north line of said Chattahoochee Brick Company Property, four hundred sixty (460) feet, more or less, to the intersection of said property line with the southeast boundary of the Chattahoochee River; running thence northeasterly along the southeast boundary of the Chattahoochee River, and following the curvature thereof, six hundred forty (640) feet, more or less, to the point of beginning; being a part of the same property conveyed to Stiles A. Kellett by Warranty Deed from Charles T. Swift on July 10, 1959 as recorded July 24, 1959, in Deed Book 3479, page 360, Fulton County Records.

Exhibit A

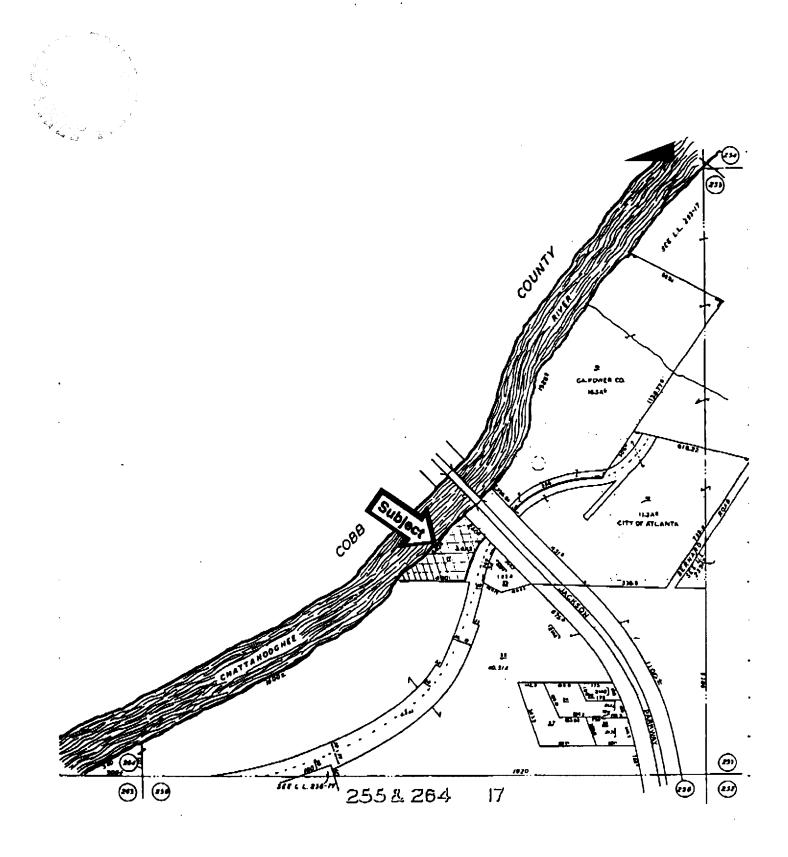


Exhibit A - Page 2

PARCEL NO. 5

ALL that tract or parcel of land lying and being in Land Lots 253 and 254 of the 17th District of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at a railroad iron on the southeast bank of the Chattahoochee River at a corner common to the lands now or formerly owned by Georgia Power Company and now or formerly owned by Atlanta Brick and Tile Company, and running thence south 23° 46' east, along the southwest property line of Atlanta Brick and Tile Company, 1,981,50 feet to a concrete monument located on the line between said Land Lot 254 and Land Lot 243 of said District and County; running thence south 1° 00' east along said Land Lot Line and along the line between said Land Lot 253 and Land Lot 244 of said District and County, and along the west line of said property of Atlanta Brick and Tile Company, 954.55 feet to a point (which point is located 171.55 feet south of a concrete monument as measured along said Land Lot Line); running thence south 61° 08' west along the northwest link of property of Georgia Power Company 546.50 feet to an Iron pin located 135 feet from the Plant Atkinson-Northwest Atlanta 110 KV Line of Georgia Power Company as measured north 61° 08' east along the extension of the last preceding call; running thence north 28° 52' west on a line parallel with and 135 feet from said Plant Atkinson-Northwest Atlanta Line, 2,125 feet to an iron pin located at the northernmost corner of a rectangular parcel of land across which Georgia Power Company has conveyed an easement dated August 25, 1961, to American-Marietta Company; running thence north 39° 08' east along the southeast line of property of Georgia Power Company 900,42 feet to a point; running thence north 23° 46' west along the northeast line of Property of Georgia Power Company 393.47 feet to a point on the southeast bank of the Chattahoochee River; running thence north 64° 04' east along the southeast bank of the Chattahoochee River 223.56 feet to a point; running thence north 78° 57' east along the southeast bank of the Chattahoochee River 78.58 feet to the point of beginning; being 53.77 acres in area as shown on Drawing No. L-303-3 prepared by the Land Department of Georgia Power Company dated June, 1961, and to which drawing reference is made.

TOGETHER WITH those Easements set out in the Warranty Deed from Georgia Power Company to American-Marietta Company, dated August 25, 1961, and recorded in Deed Book 3763, beginning at page 219, Records of Fulton County, Georgia.

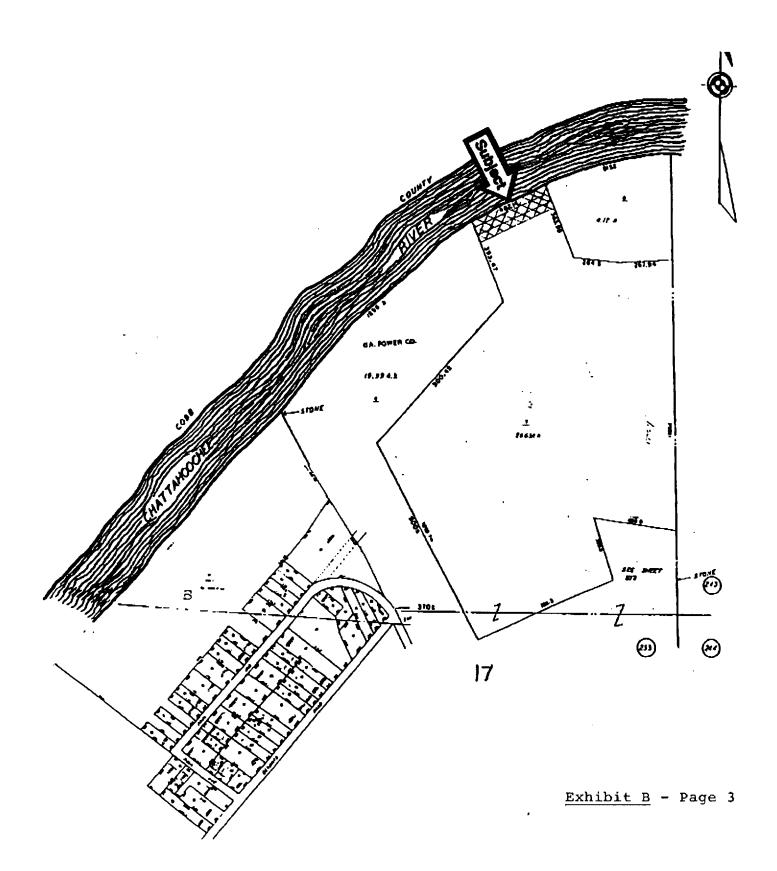


ALL that tract or parcel of land lying and being in Land Lot 254 of the 17th District of Fulton County, Georgia, containing 11.83 acres as shown on Plat of Survey prepared for Martin-Marletta Corporation by Grist & Hardwick, Inc., dated March 29, 1975, and recorded in Plat Book 107, page 59, Fulton County, Georgia Records, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, commence at the point formed by the Intersection of the east land lot line of Land Lot 253, said District and County, with the northwest limits of the 20-foot right-of-way of the abandoned river car line known as "Collins Park & Belt Railroad"; thence in a northerly direction along the east land lot line of said Land Lot 253 and along the east land lot line of said Land Lot 254 a distance of 1,912.1 feet to an iron pin on the east land lot line of said Land Lot 254 at the TRUE POINT OF BEGINNING; from the Point of Beginning thus established, running thence north 23 degrees 18 minutes 58 seconds west, along the northeastern line of property of Martin-Marietta Corporation a distance of 1,980 feet to a point on the south bank of the Chattahoochee River; running thence easterly along the south bank of said river and following the meanderings thereof a distance of 105 feet, more or less, to a point (said point being further located by a traverse line bearing north 72 degrees 03 minutes 02 seconds east 100.44 feet from the last preceding point); running thence south 23 degrees 18 minutes 58 seconds east a distance of 363.98 feet to a point; running thence in an easterly direction along the arc of a curve to the left a distance of 264.80 feet to a point (said curve being subtended by a chord bearing south 87 degrees 56 minutes 05 seconds east 262.03 feet); running thence north 77 degrees 40 minutes 58 seconds east a distance of 267.94 feet to a point on the east land lot line of said Land Lot 254; running thence south 00 degrees 44 minutes 58 seconds east along the east land lot line of said Land Lot 254 a distance of 1,563.85 feet to an iron pin at the Point of Beginning.

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Exhibit B



All that tract or parcel of land lying and being in Land Lots 253, 254 and 255 of the 17th District of Fulton County, Georgia, more particularly described in the following Warranty Deeds to Georgia Power Company:

- dated July 10, 1929, filed July 17, 1929, recorded in Deed Book 1273, Page 256, Fulton County, Georgia Records;
- b. dated October 6, 1960, filed October 7, 1960, recorded in Deed Book 3622, Page 330, aforesaid records;
- dated October 25, 1960, filed November 14, 1960, recorded in Deed Book 3633, Page 470, aforesaid records;
- d. dated November 10, 1960, filed November 14, 1960, recorded in Deed Book 3633, Page 468, aforesaid records;
- e. dated November 10, 1960, filed November 14, 1960, recorded in Deed Book 3633, Page 471, aforesaid records;
- f. dated November 11, 1960, filed November 14, 1960, recorded in Deed Book 3636, Page 126, aforesaid records;
- dated November 11, 1960, filed November 15, 1960, recorded in Deed Book 3636,
 Page 148, aforesaid records;
- dated November 14, 1960, filed November 21, 1960, recorded in Deed Book 3639,
 Page 125, aforesaid records;
- dated November 15, 1960, filed November 21, 1960, recorded in Deed Book 3639, Page 129, aforesaid records;
- j dated November 15, 1960, filed November 15, 1960, recorded in Deed Book 3636, Page 250, aforesaid records;
- dated November 16, 1960, filed November 16, 1960, recorded in Deed Book 3636,
 Page 251, aforesaid records;
- dated November 16, 1960, filed November 18, 1960, recorded in Deed Book 3636, Page 539, aforesaid records;
- m. dated November 17, 1960, filed November 18, 1960, recorded in Deed Book 3636,
 Page 517, aforesaid records;
- n. dated November 17, 1960, filed November 18, 1960, recorded in Deed Book 3636, Page 566, aforesaid records;
- dated January 26, 1961, filed January 27, 1961, recorded in Deed Book 3665, Page 477, aforesaid records;
- p. dated June 8, 1962, filed June 19, 1962, recorded in Deed Book 3898, Page 456, aforesaid records; and
- q dated November 7, 1962, filed November 7, 1962, recorded in Deed Book 3966, Page 599, aforesaid records.

Also, all rights, title and interest in and to that strip of land lying and being between the northwest line of the property above described, the southeast bank of Chattahoochee River and a projection of the southwest and northeast lines of said property.

Less and except those portions sold by Georgia Power Company in the following Deeds:

- Warranty Deed dated August 25, 1961, filed August 28, 1961, recorded in Deed Book 3763, Page 219, aforesaid records;
- Warranty Deed dated March 30, 1961, filed March 30, 1961, recorded in Deed Book 3694, Page 272, aforesaid records; and
- Quitclaim Deed dated September 29, 1954, filed October 3, 1954, recorded Deed Book 2920, Page 663, aforesaid records.



EXHIBIT D

After recording return to: The Trust for Public Land Attn: Karen W. Fuerst Suite 601 1447 Peachtree Street, NE Atlanta, Georgia 30309

BICYCLE, PEDESTRIAN AND LANDSCAPE EASEMENT AGREEMENT

WITNESSETH:

WHEREAS, GPC is the owner of that certain tract or parcel of land lying and being in Land Lots 253, 254 and 255 of the 17th District, Fulton County, City of Atlanta, Georgia, being more particularly described on Exhibit "A" attached hereto and made a part hereof by this reference (hereinafter referred to as the "GPC Tract"); and

WHEREAS, GPC wishes to grant to Grantee, and Grantee desires to accept, certain bicycle, pedestrian and landscaping easements over and across the GPC Tract, as more particularly hereinafter provided in this Agreement;

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00), the premises, the mutual benefits to be derived by the provisions of this Agreement, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged by the parties hereto, GPC and Grantee do hereby covenant and agree as follows:

Benefited Parties. The casements established in this Agreement shall be for the sole benefit of Grantee and its licensees and invitees. The parties acknowledge and agree that upon establishment of any trail system and associated recreational amenities on the GPC Tract in accordance with the terms and conditions of this Agreement, public access to the GPC Tract shall be permitted, but no dedication of the GPC Tract or any portion thereof to the public is intended or shall be deemed to occur on account thereof or otherwise in connection with this Agreement.

Grant of Easement. GPC does hereby grant and convey to Grantee a non-exclusive 2. easement (which shall be subject to termination as hereinafter expressly set forth) over, upon, across and through the GPC Tract [and, solely with respect to clause (c) below, the "GPC Access Tract" (as hereinaster defined)] solely for the following purposes consistent with the provisions and restrictions of O.C.G.A. Section 51-3-20 et seq., and for no other purposes: (a) pedestrian and bicycle [powered solely by the individual(s) riding such bicycle; motorized and motor assisted vehicles of every kind, including without limitation, motorbikes and motorcycles of every sort, are and shall be prohibited from using the GPC Tract under or pursuant to this Agreement, except to the extent and for the purposes expressly set forth in clause (c) below] access, ingress and egress as part of any pedestrian or bicycle (or both) trail system constructed and maintained on the GPC Tract from time to time at no cost or expense to GPC; (b) construction, installation, use, maintenance and repair, at Grantee's sole cost and expense, of a paved or other hard surface trail and associated trail-side improvements consisting solely of signage, fencing and landscaping on the GPC Tract and such other trail-side improvements as from time to time approved by GPC in GPC's sole discretion; (c) in connection with construction, maintenance and repair of such trail system and associated improvements, and for emergency purposes (in the event of injury to persons utilizing such trail system), the limited right and easement for vehicular access (solely in connection with such emergency purposes, construction, maintenance or repair) over and across the GPC Tract and the property described on Exhibit "C" attached hereto and by reference made a part hereof (the "GPC Access Tract") over and across such roadways, casements, driveways and access routes as are now and may hereafter be located from time to time on the GPC Access Tract to and from the GPC Tract and the public street commonly known as Paul Avenue (50' R/W); and (d) installing and maintaining in good order and repair landscaping on the GPC Tract in the vicinity of the trail system. The rights and easements granted Grantee under this Agreement shall automatically terminate and end upon the occurrence of any one or more of the following: (A) Grantee fails to complete construction of the paved or other hard surface trail on the GPC Tract on or before the twentieth (20th) anniversary of the date of this Agreement; (B) Grantee at any time after commencing construction of the paved or other hard surface trail on the GPC Tract fails to diligently prosecute such construction to completion; (C) the GPC Tract is utilized (other than by GPC, its successors, assigns, agents, contractors, subcontractors, licensees and permittees) for any purposes (such as, without limitation, parking of vehicles) other than the purposes set forth in (a), (b), (c) and (d) above; (D) Grantee assigns, transfers or otherwise disposes of, or attempts to assign, transfer or otherwise dispose of, whether voluntarily, involuntarily or by operation of law, in whole or in part, the rights and easements herein granted to Grantce other than as permitted pursuant to Section 11 of this Agreement; or (E) Grantee fails to connect the trail on the GPC Tract with similar trails along the Chattahoochee River located on the properties on the Chattahoochee adjoining the GPC Tract on or before the twentieth (20th) anniversary of the date of this Agreement. In the event Grantee completes construction of the paved or other hard surface trail on the GPC Tract on or before the twentieth (20th) anniversary of the date of this Agreement and this Agreement has not otherwise been terminated, the rights and easements granted Grantee under this Agreement shall automatically terminate and end upon the occurrence of any one or more of the following [in addition to and not in limitation of GPC rights of termination set forth above with respect to (B), (C), (D) and (E) above]: (F) Grantee fails to perform Grantee's maintenance and repair obligations under this Agreement and such failure to maintain continues uncured in excess of sixty (60) days after written notice thereof to Grantee; or (G) Grantee fails to reimburse GPC for maintenance and repair costs under Section 5 hereof within thirty (30) days after written notice thereof.

Prior to the twentieth (20th) anniversary of the date of this Agreement, Grantee shall construct and install on the GPC Tract a trail system (including without limitation a paved or other hard surface trail a minimum of ____ feet in width), consistent with the foregoing grant of easement

and the provisions of Section 4 of this Agreement. No public access to the GPC Tract shall be permitted prior to the completion of construction of such trail system. Except as may be necessary to construct the trail system, the GPC Tract shall not be used by pedestrians or bicycles prior to the completion of construction of such trail system. The trail system shall be constructed, maintained and operated at Grantee's sole cost and expense, without cost to GPC. Grantee shall keep and maintain the trail system and associated landscaping in good order, condition and state of repair, at Grantee's sole cost. No soil shall be removed from the GPC Tract by or at the direction of Grantee (provided, however, Grantee shall have the right to excavate and move non material amounts of soil on the GPC Tract as may be necessary or desirable in connection with the construction of the trail system and associated improvements, as long as there is no net change in soil volume on the GPC Tract and further provided that Grantee shall comply, at Grantee's sole cost and expense, with all laws, statutes, rules and regulations applicable to such excavation and movement). To the extent reasonably practicable, the trail system shall be constructed and installed in such a manner as to minimize the amount of excavation of the GPC Tract, it being the parties' mutual intent that trail construction and siting shall be executed in such a manner as to minimize the potential for erosion associated with such activities.

Grantee acknowledges and agrees that one or more electric transmission, distribution or communications lines of GPC pass over the GPC Tract, and that Grantee shall not use, and this Agreement does not grant Grantee (or Grantee's agents, contractors, employees, invitees and licensees) any rights to use, any property other than the GPC Tract. Grantee shall warn all persons (including but not limited to Grantee's agents, contractors, employees, invitees and licensees) using the GPC Tract that the GPC transmission, distribution and communications lines (and any additional or replacement lines from time to time installed by GPC) contain conductors and other electrical equipment and that such conductors and equipment are (w) electrical conductors and equipment, (x) energized, (y) uninsulated and (z) dangerous, and that no entry into or onto the transmission, distribution or communications lines is permitted. All paths and trails shall be constructed and located a minimum of twenty five feet from any pole, guy wire, tower or other equipment of GPC.

- Manner of Performing Work. Whenever Grantee shall enter upon the GPC Tract for the purpose of doing any construction, maintenance, repairs or replacements permitted hereunder, such work shall be done expeditiously and in a good and workmanlike manner and in accordance with all applicable laws, codes, rules and regulations of governmental authorities having jurisdiction. Grantee shall be solely responsible for obtaining, at Grantee's sole cost and expense, all permits and approvals required in connection with such work; provided, however, to the extent GPC's signature or other input in the permitting and approval process is required due to GPC's status as owner of the GPC Tract, GPC shall cooperate with Grantee in such process. Such work shall be carried out in such manner so as, to the extent reasonably practicable, to minimize disruption to the business operations of GPC conducted on the property of GPC located adjacent to or nearby the GPC Tract, without creating an unreasonable increase in the cost of doing such work.
- 4. Approval. Except for the landscaping, trails and paths expressly provided for in this Agreement, no improvements of any sort or nature shall be constructed or installed on the GPC Tract by or at the direction of Grantee. No landscaping, trails or paths on the GPC Tract shall be constructed, altered, reconstructed, remodeled, altered or added onto without the prior written approval of GPC, which approval GPC agrees not to unreasonably withhold or delay; provided, however, Grantee shall be permitted to maintain, repair and restore such items without GPC's approval. No approval by GPC under this Agreement shall in any way waive or be deemed to waive the obligations of Grantee under this Agreement. No such approval shall be deemed to imply any warranty, representation or approval by GPC that such the matter approved, if so constructed, will be

structurally sound, will comply with all building codes or other governmental laws or regulations or legal requirements, will be fit for any particular purpose or will have a market value of any particular magnitude, or that GPC has reviewed the plans from the standpoint of engineering or structural design, quality of materials, or safety, whether structural, fire, security or otherwise.

- 5. Failure to Maintain. In the event that Grantee shall fail to perform its maintenance and repair obligations with reasonable diligence, GPC shall have the right, if such failure shall continue for a period of thirty (30) days after written notice thereof to Grantee (provided, however, in the event GPC in good faith believes an emergency condition exists, such as could reasonably be expected to cause injury to persons or property, no such advance notice shall be required), to enter upon the GPC Tract and perform such maintenance and repair. All reasonable costs and expenses incurred by GPC in connection with the performance of such maintenance and repair shall be reimbursed by Grantee to GPC within thirty (30) days after being billed therefor by GPC, which billing shall be accompanied by such backup invoices, receipts and other materials as are necessary for Grantee to determine the accuracy of the bill. Any amounts not so reimbursed by Grantee within such thirty (30) day period shall thereafter bear interest at the lesser of (a) the maximum amount of interest permitted by applicable law, or (b) the rate of twelve percent (12%) per annum, until paid.
- Insurance. Commencing on the "Insurance Acquisition Date" and continuing 6. thereafter during the term of this Agreement, Grantee shall obtain and shall at all times maintain commercial general liability insurance with respect to the GPC Tract, naming GPC as an additional insured, and insuring against claims of bodily injury and property damage occurring on or about the GPC Tract, with minimum combined single limit of \$2,000,000/\$1,000,000 per occurrence. "Insurance Acquisition Date" shall mean the earlier to occur of (a) commencement of construction of a trail system pursuant to Paragraph 2 hereof; (b) any public access to the GPC Tract (whether or not permitted pursuant to this Agreement; and without Grantor hereby consenting to, or being deemed to consent to, any such access); (c) any assignment, transfer or otherwise disposition of, or attempt to assign, transfer or otherwise dispose of, whether voluntarily, involuntarily or by operation of law, in whole or in part, the rights and casements herein granted to Grantee (without Grantor hereby consenting to, or being deemed to have consented to, any such transfer); or (d) any entry onto the GPC Tract to exercise rights or easements under or pursuant to this Agreement. Commencing on the fifth (5th) anniversary of the date of this Agreement, and continuing thereafter on the fifth (5th) anniversary of the previous "Adjustment Date" (as hereinafter defined) (each of such dates being referred to as an "Adjustment Date"), the aforesaid minimum amount of insurance coverage shall be increased to the amount equal to the initial minimum amount set forth above plus an amount equal to the product of the percentage increase in the Index (as hereinafter defined) for the third month immediately preceding the Adjustment Date as compared to the Index for the third month prior to the date of this Agreement, multiplied by the initial minimum amount of insurance coverage set forth above; provided, however, in no event shall the required minimum amount of insurance coverage following an Adjustment Date be less than required minimum amount of insurance coverage immediately prior to such Adjustment Date. The term "Index" shall mean the Consumer Price Index for All Urban Consumers (U.S. City Average; Base 1982-84=100), published by the Bureau of Labor Statistics of the United States Department of Labor. If the Bureau of Labor Statistics should discontinue the publication of the Index, or publish the same less frequently, or alter the same in some manner, then GPC shall adopt a substitute index or a substitute procedure which reasonably reflects and monitors consumer prices. Such insurance shall be written by companies of recognized financial standing which are authorized to do insurance business in the State of Georgia, shall name GPC as an additional insured party, shall be reasonably satisfactory to GPC in all respects and shall expressly provide that no cancellation, reduction in amount or material change in coverage thereof shall be effective until at least thirty (30) days after receipt by GPC of written notice thereof.

- 7. Extent of Liability. The use of the GPC Tract by Grantee, its licensees and invitees, shall be at the sole risk and expense of Grantee, and GPC is specifically relieved of any responsibility for injury to persons or damage to property resulting or occurring from the use of the GPC Tract by Grantce, its licensees and invitees. Grantee hereby covenants not to sue GPC in such instance. To the extent allowed by law and to the extent of the availability of proceeds from policies of insurance produced by Grantee, Grantee agrees to assume liability for, and does hereby agree to indemnify, protect, save and keep harmless GPC from and against any and all liabilities, obligations, losses, damages, penalties, claims (including, without limitation, claims involving strict or absolute liability in tort), actions, suits, costs, expenses and disbursements (including reasonable legal fees and expenses) of any kind and nature whatosever arising out of or relating in any way to injuries to persons, including death, or damage to property which are caused by Grantee, Grantee's assigns, employees, agents, and representatives or which may be imposed on, incurred by or asserted against GPC, in any way relating to or arising out of this Agreement or the subject matter of this Agreement. To the extent of the insurance proceeds received under any insurance policy required to be maintained by Grantce (but in no event in excess of the fullest extent permitted under O.C.G.A. Section 13-8-2), Grantee hereby releases GPC, its agents and employees from any liability for damage to property or injury to persons, regardless of the cause of such damage or injury. Except as provided in the sentence immediately preceding this sentence, the provisions of this Section 7 and the waivers and indemnities in this Agreement in favor of GPC shall not apply to damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of GPC, its agents or employees to the extent O.C.G.A. Section 13-8-2 is applicable thereto. This Agreement is entered into by Grantee for the purposes set forth in Section 2 of this Agreement, which are "recreational purposes" under the provisions of O.C.G.A. Section 51-3-20. GPC and Grantee expressly intend and agree that the provisions of O.C.G.A. Sections 51-3-22 and 51-3-23 shall apply to the duties and liabilities of GPC.
- 8. Liens. If any "Lien" or notice thereof shall at any time be filed, then Grantee shall cause the same to be bonded or discharged of record, within twenty (20) days after the date of receipt of written notice from GPC identifying the Lien. "Lien" shall mean any mechanics or other liens against all or any portion of the GPC Tract or any other property of GPC by reason of work, labor, services or materials supplied or claimed to have been supplied to Grantee, its agents, employees, contractors or subcontractors, or anyone employed by any of them, in connection with the exercise by Grantee of any of its rights hereunder, or the performance by Grantee of any of its obligations hereunder.
- 9. Notices. All notices provided for or permitted hereunder shall be in writing in the English language and shall be deemed to have been properly given or served when delivered personally or by overnight air courier or deposited in the United States mail, or any official successor thereto, as registered or certified mail, return receipt requested, postage prepaid and addressed as hereinafter provided or at such other address in the United States as GPC or Grantee may from time to time designate by like notice. Each such notice shall be effective upon being so delivered or deposited. The time period within which a response to any such notice must be given, however, shall commence to run from the date of delivery, if delivered by hand or by overnight air courier, or from the date of receipt set forth on the return receipt notice, if mailed as provided above. Rejection or refusal to accept delivery or an inability to deliver because of change of address of

which no notice was given shall all be deemed to be receipt of the notice or statement sent.

Grantee:

The Trust for Public Land (Inc.)
Attn: Director, Atlanta Field Office
Suite 601
1447 Peachtree Street, NE
Atlanta, Georgia 30309

With a copy to:

The Trust for Public Land (Inc.)
Regional Counsel
Atlanta Field Office
Suite 601
1447 Peachtree Street, NE
Atlanta, Georgia 30309

GPC:

Georgia Power Company
Attention: Alan Witherow,
Land Department
15th Floor
BIN 10151
241 Ralph McGill Boulevard
Atlanta, Georgia 30308

- 10. Severability. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate applicable law and shall be limited to the extent necessary to render this Agreement valid and enforceable. If any term, provision, covenant or agreement contained herein or the application thereof to any person or circumstance shall be held to be invalid, illegal, or unenforceable, the validity of the remainder of this Agreement or the application of such term, provision, covenant or agreement to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby.
- benefit of GPC and GPC's successors, successors-in-title, legal representatives and assigns. This Agreement shall be binding upon and inure to the benefit of Grantee and its successors and permitted assigns. Grantee shall not assign, transfer or otherwise dispose of, or attempt to assign, transfer or otherwise dispose of, whether voluntarily, involuntarily or by operation of law, in whole or in part, the rights and easements herein granted to Grantee, without the express prior written consent of GPC, and any such assignment, transfer or disposition without said consent shall, at the option of GPC, be null and void. GPC's consent shall not be required for the assignment of all of Grantee's rights and easements to a political subdivision of the State of Georgia or any public authority of any such political subdivision. Any consent given by GPC to any assignment, transfer or other disposition shall apply only to the specific transaction thereby authorized and shall not relieve Grantee or any approved successor of Grantee from the requirement of obtaining the prior written consent of GPC to any further transfer, assignment or disposition. The rights and easements herein

granted to Grantee shall run with the land, and shall be binding upon the owners of the GPC Tract from time to time. The easements and rights created, granted and established in this Agreement do not, are not intended to, and shall not be construed to create any third party beneficiary rights in favor of any other parties or any easement, right or privilege for the benefit of the general public; provided, however, the parties expressly acknowledge and agree that public access to any trail system located on the GPC Tract from time to time is expressly permitted and contemplated, but no dedication of the GPC Tract or any portion thereof to the public is intended or shall be deemed to occur on account thereof or otherwise in connection with this Agreement.

- Miscellaneous. This Agreement shall be governed in accordance with the laws of the 12. State of Georgia. The paragraph headings in this Agreement are for convenience only, shall in no way define or limit the scope or content of this Agreement, and shall not be considered in any construction or interpretation of this Agreement or any part hereof. Nothing in this Agreement shall be construed to make the parties hereto parties or joint venturers. No party hereto shall be obligated to take any action to enforce the terms of this Agreement or to exercise any casement, right, power, privilege or remedy granted, created, conferred or established hereunder. Except as expressly otherwise provided herein, this Agreement may be amended, modified or terminated only in writing, executed and acknowledged by all parties to this Agreement or their respective successors or assigns. Grantce's rights hereunder shall be subject to any mortgage, indenture or deed to secure debt which now encumbers the GPC Tract, or may hereafter be placed upon the GPC Tract by GPC. GPC makes no representation or warranty regarding title to the GPC Tract. No failure of any party to this Agreement to exercise any power given hereunder or to insist upon strict compliance with any obligation specified herein, and no custom or practice at variance with the terms hereof, shall constitute a waiver of either party's right to demand exact compliance with the terms hereof. This Agreement contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. Time is of the essence of this Agreement. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement. The executed signature pages of any counterpart hereof may be appended or attached to any other counterpart hereof; and, provided that all parties hereto shall have executed a counterpart hereof, this Agreement shall be valid and binding upon the parties notwithstanding the fact that the execution of all parties may not be reflected upon any one single counterpart. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all genders, the singular shall include the plural and vice versa. The headings inserted at the beginning of each Section are for convenience only, and do not add to or subtract from the meaning of the contents of each Section. No provision of this Agreement shall be construed against or interpreted to the disadvantage of either party by any court, judicial or other governmental authority by reason of such party's having been deemed to have structured, written, drafted or dictated such provision.
- 13. Lines. Notwithstanding any provision of this Agreement to the contrary, GPC expressly retains ownership of and the sole and exclusive right to use any and all overhead and underground electric transmission, distribution and communication lines, cables, equipment, towers, frames, poles, wires, manholes, conduits, fixtures, appliances, and protective wires and devices in connection therewith, and appurtenances thereto, constituting all or any portion of any existing transmission or distribution lines or communications lines of GPC or any affiliates of GPC.
- 14. Reserved Rights. GPC hereby retains unto itself, its successors and assigns, for the benefit of GPC, its successors, assigns and such others (such as but not limited to GPC's agents, contractors, subcontractors, licensees and permittees) as GPC shall from time to time designate, the

rights, interests and easements from time to time and at any time, upon, over, across and under the GPC Tract (i) to construct, install, use, patrol, obtain access to, operate, maintain, repair, inspect, renew, rebuild, reconstruct, replace, improve, upgrade, enhance and add onto overhead and underground electric transmission and distribution lines, poles, towers, frames, manholes, conduits, fixtures, appliances, wires, cables and equipment, and protective wires and devices, and communications lines, cables and equipment (including, without limitation, "Communications Facilities" as hereinafter defined); and (ii) to construct, install, use, patrol, obtain access to, operate, maintain, repair, inspect, renew, rebuild, reconstruct, replace, improve, upgrade, enhance and add onto additional transmission, distribution, and communications lines, poles, towers, frames, manholes, conduits, fixtures, appliances, wires, cables and equipment, and protective wires and devices, including, without limitation, Communications Facilities ["Communications Facilities" shall mean (x) equipment, systems or facilities used for or in connection with communications by radio, including without limitation, microwave towers, mobile base radio towers, radio base repeater towers, telemeter transmitters, multiple address system radios or power line carrier equipment, and any permits, licenses or leases relating to any one or more of the foregoing, and (y) equipment, systems or facilities used for or in connection with light wave communications over optical fibers, including without limitation, optical fibers, optronic or photo-optronic equipment, repeaters, junctions, splice enclosures or equipment for the conversion of light signals to or from radio or electronic signals, and any permits, licenses or leases relating to any one or more of the foregoing], and, in addition to and not in limitation of the foregoing, the terms and provisions of the form of Easement for Right-of-Way attached hereto as Exhibit."B" and by reference made a part hereof shall apply to such easements as if "GPC" referred to GPC and "the Undersigned" referred to Grantee, and with such changes as may be necessary to reflect that such easements were reserved by GPC rather than granted by Grantee. Notwithstanding any provision of this Agreement to the contrary, in connection with the exercise of the rights reserved by GPC, GPC shall have the right from time to time and at any time to temporarily prohibit or restrict access to all or any portion of the GPC Tract. GPC shall have no obligation to repair any damage to any landscaping, trails, or paths caused by or resulting from the exercise of the rights reserved by GPC hereunder.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

[SIGNATURE PAGE OF BICYCLE, PEDESTRIAN AND LANDSCAPE EASEMENT AGREEMENT]

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day, month and year first above written.

Signed, sealed and delivered in the presence of:	GRANTEE:
Witness	THE TRUST FOR PUBLIC LAND, a California public benefit corporation d/b/a The Trust for Public Land (Inc.)
Notary Public	By:
My Commission expires:	
	Attest:
Notarial Seal	Its:
	(CORPORATE SEAL)
Signed, scaled and delivered in the presence of:	GPC:
	GEORGIA POWER COMPANY, a Georgia
Witness	corporation
	Ву:
Notary Public	Its:
My Commission expires:	Attest:
	Its:
Notarial Seal	
	(CORPORATE SEAL)

EXHIBIT "A"

Legal Description of GPC Tract

Exhibit "B"

Form Transmission Easement

Form Transmission Easement
Acet No Draft No R.C. No
EASEMENT FOR RIGHT-OF-WAY
STATE OF GEORGIA.
COUNTY
For and in consideration of the sum of COMPANY, a Georgia corporation (hereinafter referred to as "Georgia Power," which term shall include successors and assigns), the receipt and sufficiency of which is hereby neknowledged. (hereinafter referred to as "the Undersigned," which term shall include heres, successors and assigns), whose Post Office attrees is Georgia Power the rights to, from time to time, construct, operate, maintain, renew and rebuild overhead and underground electric transmission, distribution and communication lines, highelier with necessary or convenient knowers, frames, poles, wires, manholes, conduits, fixtures, appliances, and protective wires and devices in connection therewith (all being hereinafter referred to as "the Premises"), together with the right of Georgia Power togrant, or permit the exercise of, the same rights, either in whole or in part, to others, and said rights are granted to Georgia Power together with all rights, provleges and eastenints necessary or convenient for the full enjoyment and use of the Premises for the purposes above described, including the right of ingress and egress to and from the Premises over lands of the Undersigned and the right or an away and keep clear, remove and dispose of all obstructions now on the Premises or that may hereafter be placed on the Premises by the Undersigned or any other person. Further, Georgia Power shall have the right to eat, remove and dispose of dead, diseased, weak or learning trees (bereinafter referred to as "danger neces") on lands of the Undersigned adjacent to the Premises which may never or hereafter strike, injure, endanger or interfere with the maintenance and operation of any of the Facilities located on the Premises, provided that on future cutting of such danger trees Georgia Power shall pay to the Undersigned the fair market value of the merchantable timber so cut to become the property of Georgia Power shall also have, and is hereby granted, the right to install, maintain and use anchors or guy wires in ba
The Premises are shown on a plat made by or for Georgia Power, and on file in Georgia Power's Land Department, and are as described as follows:
Georgia Power shall pay or tender to the Undersigned or owner thereof a fair market value for any growing crops, fruit trees or fences out, damaged or desiroyed on the Premises by employees of Georgia Power and its agents, in the construction, reconstruction, operation and maintenance of the Facilities, except those crops, fruit trees and fences which are an obstruction to the use of the Premises as herein provided or which interfere with or may be likely to interfere with or endanger the Facilities or their proper maintenance and operation, provided the Undersigned shall give Georgia Power written notice of the afleged damage within thiny (30) days after the alleged damage shall have been done. The Undersigned shall minify Georgia Power of any party with whom the Undersigned contracts and who owns, as a result thereof, any growing crops, fruit trees or fences; and the Undersigned shall inform said party of the notification provision set forth hereof. Any growing crops, fruit trees or fences so cut or damaged on the Premises in the construction, reconstruction, operation and maintenance of the Facilities are to remain the property of the owner thereof. It is agreed that part of the within named consideration is in full payment for all timber out or to be cut in the initial clearing, and construction of the
Pacinities and that finites are cut as in become the property of Georgia Power. The Understand will notify Georgia Power in the event the Understand has contracted with another party who owns as a result thereof the tinder to be so cut. The Understand has the right to use the Promises for agricultural or any other purposes not inconsistent with the rights hereby granted, provided such use shall not injure or interfere with the proper operation, maintenance, repaired, extensions or additions to the Facilities; and provided further that no buildings or structures other than lennes (which shall not exceed eight (8) feet, in height and shall neither otherwise interfere with any of the rights required to Georgia.
Power hereby) may be erected upon the Premises. The Undersigned expressly grants to Georgia Power the right to take any action, whether at law or in equity, and whether by injunction, ejectment or other means, to prevent the construction, or after erection thereof to cause the removal, of any building or other structure(s) located on the Premises (other than fences as provided for herein), regardless of whether the offending party is the Undersigned or not. The undersigned will notify Georgia Power in the event the Undersigned contracts with a third party who name, as a result thereof, any buildings or other such structures. The Undersigned acknowledges and agrees that said rights are necessary for the safe and proper exercise and use of the rights, privileges, casements and interests herein granted to Georgia Power.
Georgia Power shall not be liable for or bound by any statement, agreement or understanding not expressed herein.
TO HAVE AND TO HOLD forever unto Georgia Power the rights, privileges, ensements, powers, and interests granted herein, which shall be a covenant running with the title to the Premises
The Undersigned warrants and will forever defend the title to the rights, provileges an ensements granted herein to Georgia Power against the claims of all persons whatsoever.
IN WITNESS WITERIOF, the Undersigned hereunto set hand(s) and seal(s), this day of
Signed, sealed and delivered in the presence of:
Witness(SEAL)
Notary Public (SEAL)



EXHIBIT "C"

Legal Description of GPC Access Tract

Atlanta City Council

Regular Session

CONSENT

Pages 1 thru 13

ADOPT

SEE ATTACHED LISTING OF ITEMS ADOPTED/ADVERSED

ON CONSENT AGENDA

YEAS: 13 NAYS: 0

ABSTENTIONS: 0 NOT VOTING: 1 EXCUSED: 0

ABSENT 2

Unanimous

Y McCarty Y Dorsey Y Moore Y Thomas Y Starnes Y Woolard B Martin Y Emmons Y Bond Y Morris Y Maddox B Alexander Y Winslow Y Muller Y Boazman NV Pitts

ITEM (S) REMOVED FROM CONSENT AGENDA

01-O-0345 01-O-0526

01-R-0541

ITEMS ADOPTED ON CONSENT AGENDA

04/02/01 Council Meeting

ITEMS ADVERSED ON CONSENT AGENDA

- 1. 01-0-0225
- 2. 01-O-0534
- 3. 01-0-0528
- 4. 01-O-0539
- 5. 01-O-0530
- 6. 01-O-0531
- 7. 01-R-0527
- 8. 99-R-2071
- 9. 01-R-0368
- 10. 01-R-0481
- 11. 01-R-0536
- 12. 01-R-0537
- 13. 01-R-0550 14. 01-R-0484
- 15. 01-R-0485
- 16. 01-R-0486
- 17. 01-R-0487
- 18. 01-R-0293
- 19. 01-R-0425
- 20. 01-R-0457
- 21. 01-R-0418
- 22. 01-R-0483
- 23. 01-R-0549
- 24. 01-R-0500
- 25. 01-R-0501
- 26. 01-R-0502
- 27. 01-R-0503
- 28. 01-R-0504
- 29. 01-R-0505
- 30. 01-R-0506
- 31. 01-R-0507
- 32. 01-R-0508

- 33. 01-R-0509
- 34. 01-R-0510
- 35. 01-R-0511
- 36. 01-R-0512
- 37. 01-R-0513
- 38. 01-R-0514
- 39. 01-R-0515
- 40. 01-R-0516
- 41. 01-R-0517
- 42. 01-R-0518
- 43. 01-R-0519
- 44. 01-R-0520 45. 01-R-0521
- 46. 00-R-1361

0.000	First Reading	ding	COUNCIL ACTION
Do Not Write Above This Line)	Date		□2nd □1st & 2nd □3rd
			Readings
A RESOLUTION RV COMMINITY DEVELOPMENT/HIMAN RESOLIRCES	Committee CONTINE	Committee	GConsent □V Vote ☑RC Vote
COMMITTEE	2001/8/61	Date	CERTIFIED
	chair /	Chair	
K (O (S	Actions Fav, Adv, (Held (see rev. side) Others	Actions Fav, Adv, Held (see rev. side) Others	APR 0 2 2001
FY LANDOWNER FOR PUBLIC	Members	Members	(a)
	3/14/0>		ATLANTA CITY COUNCIL PRESIDENT
CHATTAHOOCHEE RIVER PARK, CONSISTENT WITH THE TERMS OF THAT CERTAIN CONSERVATION SERVICES			
AGREEMENT BETWEEN THE CITY OF ATLANTA AND THE TRUST FOR PUBLIC LAND; AND FOR OTHER PURPOSES.	Refer To	Refer To	
ADOPTED BY	Committee CP//R	Committee	
102 C 0 Edy) 3/2% // /	Date	MUNICIPAL CLERK
	Charle 18	Chair	
COUNCIL	ction: Veloni (see rev. side)	Actions Fav, Adv, Held (see rev. side)	- 5
 □ CONSENT REFER □ REGULAR REPORT REFER □ ADVERTISE & REFER □ 1st ADOPT 2nd READ & REFER 	Months Municipality	Members	
Date Referred			100 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
Referred To:	Ming ton		
	Refer To	Refer To	
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